

**REMARKS**

Claims 1 – 3, 8 – 34, and 36 - 189 were pending in the application. No claims have been amended. No claims have been cancelled. No new claims have been added. No new matter has been added by virtue of the amendments and claims, support being found throughout the specification and claims as originally filed.

Any cancellation of the claims should in no way be construed as acquiescence to any of the Examiner's rejections and was done solely to expedite the prosecution of the application. Applicant reserves the right to pursue the claims as originally filed in this or a separate application(s).

**Withdrawn Objections/ Rejections**

The Examiner has withdrawn the rejection to claims 162 - 189 under 35 U.S.C. 103(a) as being unpatentable over Klein et al. (US Patent 5,413,686), in view of the Agilent brochure (Agilent capillary electrophoresis system, brochure) and further in view of Jardemark et al. (Analytical Chemistry, 1997, volume 69, pages 3427 – 3434).

**Rejection of Claims Under 35 U.S.C. 103(a)**

The Examiner has maintained the rejection to claims 1- 3, 8 – 13, 15 – 18, 24 – 33, 36 – 39, 43 – 94, 97 – 98, 100 – 122, 126 - 134, 139 - 139, 142 – 149, 151, 153 – 155, and 159 – 161 under 35 U.S.C. 103(a) as being unpatentable over Klein et al. (US Patent 5,413,686; the '686 reference herein), in view of Agilent (Agilent capillary electrophoresis system, brochure) and further in view of Ishmagilov et al. (WO 02/086333). (Office Action, p.5).

The Examiner has maintained the rejection to claims 14, 19 – 23, 99 and 156 under 35 U.S.C. 103(a) as being unpatentable over Klein et al. (US Patent 5,413,686; the '686 reference herein), in view of Agilent (Agilent capillary electrophoresis system, brochure) and further in view of Ishmagilov et al. (WO 02/086333), as applied to claims 1- 3, 8 – 13, 15 – 18, 24 – 33, 36 – 39, 43 – 94, 97 – 98, 100 – 122, 126 - 134, 139 –

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139, 142 – 149, 151, 153 – 155, and 159 – 161 above, and further in view of Colton et al. (Electrophoresis, 1998, vol. 19, pages 367 – 382). (Office Action, p.19).

The Examiner has maintained the rejection to claims 34, 40 – 42, 150 and 152 under 35 U.S.C. 103(a) as being unpatentable over Klein et al. (US Patent 5,413,686; the '686 reference herein), in view of Agilent (Agilent capillary electrophoresis system, brochure) and further in view of Ishmagilov et al. (WO 02/086333), as applied to claims 1- 3, 8 – 13, 15 – 18, 24 – 33, 36 – 39, 43 – 94, 97 – 98, 100 – 122, 126 - 134, 139 - 139, 142 – 149, 151, 153 – 155, and 159 – 161 above, and further in view of Katayama et al. (Analytical Chemistry, 1998, vol. 70, pages 2254 - 2260). (Office Action, p. 21).

The Examiner has maintained the rejection to claims 95 – 96, 123, 135 - 137, 140, 141, 157 and 158 under 35 U.S.C. 103(a) as being unpatentable over Klein et al. (US Patent 5,413,686; the '686 reference herein), in view of Agilent (Agilent capillary electrophoresis system, brochure) and further in view of Ishmagilov et al. (WO 02/086333), as applied to claims 1- 3, 8 – 13, 15 – 18, 24 – 33, 36 – 39, 43 – 94, 97 – 98, 100 – 122, 126 - 134, 139 - 139, 142 – 149, 151, 153 – 155, and 159 – 161 above, and further in view of Jardemark et al. (Analytical Chemistry, 1997, vol. 69, pages 3427 - 3434). (Office Action, p.23).

The Examiner has maintained the rejection to claim 125 under 35 U.S.C. 103(a) as being unpatentable over Klein et al. (US Patent 5,413,686; the '686 reference herein), in view of Agilent (Agilent capillary electrophoresis system, brochure) and further in view of Ishmagilov et al. (WO 02/086333), as applied to claims 1- 3, 8 – 13, 15 – 18, 24 – 33, 36 – 39, 43 – 94, 97 – 98, 100 – 122, 126 - 134, 139 - 139, 142 – 149, 151, 153 – 155, and 159 – 161 above, and further in view of Couderc et al. (Electrophoresis, 1998, volume 19, 2777 – 2790).

For the sake of brevity, the rejections under 103(a) are addressed together because each rejection relies on the '686 reference in view of the Agilent brochure and the Ishmagilov reference in combination with another reference.

Applicants respectfully traverse the forgoing rejections.

Present claim 1 is directed to a computer program product comprising a computer readable medium having computer readable program code embodied in the medium for causing an application program to execute on a computer, wherein the program product comprises instructions for controlling one or more functions of a microfluidic substrate in response to received data regarding one or more substrate properties, wherein the one or more functions comprises scanning a cell based biosensor in electrical communication with an electrode relative to multiple substantially separate interdigitated fluid streams of ligand and buffer from one or more outlets of one or more microchannels in the substrate by moving the sensor, moving the substrate, moving both the sensor and the substrate and/or by varying pressure of one or more of the microchannels.

Present claim 2 is directed to the same subject matter as instant claim 1 with the additional feature of providing instructions for controlling one or more functions of a microfluidic substrate in response to received data regarding one or more properties of a sensor in fluid communication with at least one microchannel of the substrate

Present claim 3 is directed to a computer program product comprising a computer readable medium having computer readable program code embodied in the medium for causing an application program to execute on a computer, wherein the program product comprises instructions for controlling one or more functions of a microfluidic substrate, including instructions for controlling the scanning of a cell based biosensor to multiple substantially separate interdigitated fluid streams of ligand and buffer from a plurality of outlets of one or more microchannels in the substrate by varying the pressure of one or more of the microchannels.

No combination of references as cited by the Examiner teaches or suggests the claimed inventions.

Nowhere does the '686 reference teach or suggest a computer program product as claimed, where the one or more functions comprises scanning a cell based biosensor in electrical communication with an electrode relative to multiple substantially separate interdigitated fluid streams of ligand and buffer from one or more outlets of one or more microchannels in the substrate by moving the sensor, moving

**the substrate, moving both the sensor and the substrate and/or by varying pressure of one or more of the microchannels.**

None of the Agilent, Ishmagilov, Katayama, Jaredemark or Couderc references cure the flaws of the '686 reference. None of Agilent, Ishmagilov, Katayama, Jaredemark or Couderc alone or in combination with the' 686 reference teaches or suggests scanning a cell based biosensor, as claimed.

The present invention provides an automated workstation for controlling various processes in a microfluidic substrate and for controlling the movement of one or more sensors relative to such a substrate. The specification defines scanning at p. 20 – 21, where:

"scanning of a sensor relative to one or more channels in a microfluidic substrate" refers to exposure of the sensor to a plurality of fluid streams from at least one channel in the substrate. This may be achieved by **moving a sensor past one or more channel outlets in a stationary substrate** providing such streams or by **moving the substrate relative to a stationary sensor so that it is exposed to streams from one or more channel outlets of the substrate**. Scanning may also be achieved by moving both the substrate and the sensor...In an embodiment where the sensor is stationary, scanning can be done by varying pressure at one or more channels.

The claims of the present invention are directed to a **scanning mechanism** that can be used to move the sensor between the outlets of the channels, and expose the sensor to different streams of fluid exiting the outlets. For example, the specification at p. 31 teaches that the sensor can be a cell or membrane patch, and that the "one or more sensors are moved rapidly over the distance between the outlets of closely spaced channels in the senor chamber, exposing the one or more biosensors in the chamber to different streams of fluid exiting the outlets." Further, p. 61 teaches the use of the instant system to selectively expose a sensor to a fluid stream from an outlet, for example a sensor with a patch clamp device:

In one aspect, to achieve high screening rates in, for example, HTS applications, patch-clamped cell(s) in the sensor chamber are moved from the outlet of one microchannel to the next in rapid succession. To achieve rapid resensitization of ion channels and receptors, microchannels delivering samples comprising suspected modulators, agonists, or drugs of receptor/ion channels are interdigitated with microchannels delivering buffer for resensitization of the receptor/ion channels (e.g., buffer free of any agonist). In addition to resensitizing ion channels and receptors, this delivery of buffer onto cells between ligand and drug exposure serves to wash out ligands and drugs previously administered to the cell. Thus, in this aspect, the system is used to screen for an agonist or modulator or drug of a specific ion-channel by providing a periodically responsive ion channel sensor. For example, by providing pulsed or steady-state flow delivery of buffer to the sensor, the system provides a cell that is resensitized when exposed to a channel outlet delivering a candidate agonist or modulator or drug.

This is also shown in FIGS. 13 and 14. In FIG 13, for example, the screen is performed linearly from channel outlet position 1 to 26. In FIG. 14, the simulated trace, shown in FIG. 14B, for a linear, single, forward scan of a cell-based biosensor across microfluidic microchannel outlets, show a plurality of peak responses obtained per single microchannel outlet. Further, as described at p. 63, scanning rates can be modified to account for the physiological responses of a cell-based sensor, e.g., providing slower scanning rates for receptors that equilibrate slowly.

The '686 reference is directed to a capillary electrophoresis analyzer that can simultaneously analyze a plurality of samples. (column 3). Nowhere does the '686 reference teach or suggest any scanning as presently claimed.

The '686 reference teaches that the first ends of the capillaries are adapted to be collectively transported to and from selected reagent reservoirs (and) (t)he second ends of the capillaries are removably and sealable retained within a common manifold that is

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in turn in selectable fluid communication with selected reagents and a vacuum source. (see abstract). Applicants again point out col. 11, line 23 – col. 14, line 36, where an analysis cycle of the analyzer is described:

Turntable 100 is rotated to position the first sample tube 132a under the hole 222 and beneath the arc described by the fluid probe 534. The probe 534, in an initial raised park position, is rotated to a position above the first sample tube 132a. ...The pipettor-dilutor assembly 52 is controlled to dispense the sample into the reservoir 144a and also dispense an additional volume of diluent into the reservoir 144a.

The probe 534 is raised, rotated and lowered into the inner fountain 348 of the wash station 346...

The turntable 100 is rotated to position reservoirs 144b and 144c within the reservoir group 142a beneath the wash and buffer reagent tubes 224 and 226, respectively. Valves 520 and 522 are opened for a predetermined time period to dispense running buffer and wash solution into the reservoirs 144b and 144c, respectively.

The above sample, running buffer and wash solution dispensing procedures are repeated for the remaining samples in the sample tubes 132b-132f to dispense diluted sample, running buffer and wash solution into respective reservoirs 144a, 144b, and 144c, respectively, in the reservoir groups 142b through 142f.

(t)he turntable 100 is rotated so as to position the sample ends of the capillaries 200 above the reservoirs 144b in the reservoir groups 142a through 142f that contain running buffer. The elevator stepper motor 154 is controlled to lower the sample end plate 202 until it rests atop the pins 115 and the sample ends of the capillaries 200a through 200f as well as the corresponding electrodes 240 are lowered into the

running buffer reservoirs 144b...After a suitable predetermined time period, the vacuum pump 510 and valve 516 are deactivated. The buffer valve 501, auxiliary vent valve 502, and manifold vent valve 507 are opened and the drain valve 508 is closed to complete the filling of the manifold 322 with running buffer by gravity feed from the running buffer bottle 66...

With the manifold 322 filled, buffer valve 501 and auxiliary vent valve 502 are closed...

In order to load sample into the capillaries 200, the elevator stepper motor 254 is controlled to raise the sample end plate 202 such that the ends of the capillaries 200 and the electrodes 240 clear the reagent segments 140. The turntable 100 is rotated to position the sample ends of the capillaries 200 above the sample reservoirs 144a within the respective reservoir groups...The vacuum pump 510 and valves 512, 507 and 508 are operated to apply regulated vacuum to the manifold 322.

The vacuum pump 510 and valves 512, 507 and 508 are then de-energized to release the regulated vacuum, and the sample end plate 202 is raised, turntable 100 is rotated and sample end plate 202 is again lowered to position the sample ends of the capillaries 200a-200f and the corresponding electrodes 240 into the running buffer reservoirs 144b...

The high voltage power supply 248 is commanded to apply a high voltage across the capillaries 200...

With the electrophoresising voltage applied across the capillaries 200, electrophoretic separation occurs and during the electrophoresising period of, for example, two minutes to four minutes, separated samples (depending upon the mobility of the molecules in the samples) flow past the windows 432 within each of the capillaries 200...The values may be stored as

files on one of the disk drives 604 for further manipulation and data analysis and reduction by the control system 590 or external "host" computing means.

Clearly, no scanning mechanism is taught or suggested by the '686 reference. In fact, no scanning mechanism similar to the present invention can be envisioned using the analysis cycle as taught by the '686 reference.

Neither the '686 reference, nor any of the other cited documents disclose or suggest scanning a cell based biosensor relative to multiple fluid streams from one or more microchannels in a substrate by moving the sensor, moving the substrate, moving both the sensor and the substrate and/or by varying pressure of one or more of the microchannels as Applicants disclose and claim.

The Examiner argues that the Agilent reference "is a brochure describing the benefits of using an Agilent capillary electrophoresis system for measuring biomolecules (and) the fourth page of the brochure measures the migration time of an oligonucleotide sensor." (Office Action, p.5). The Examiner argues that "(t)he brochure itself gives instructions for detecting sensors using the CE apparatus in the form of specification on the penultimate page of the brochure." (Office Action, p.5).

The Examiner argues that "it would have been (obvious) to someone of ordinary skill in the art at the time of the instant invention to modify the capillary electrophoreses apparatus of Klein et al. (the '686 reference) by the use of sensors, agents, and capillary electrophoresis apparatus of Agilent brochure wherein the motivation would have been that the use of a sensor gives the apparatus an entity with which to measure migration time." (Office Action, p.15). The Examiner argues that it would have been further obvious to modify the multi-capillary electrophoresis system of Klein et al. and the sensors, agents and apparatus of the Agilent brochure by use of the collimated and substantially separate laminar flows of Ishmagilov et al. wherein the motivation would have been that the laminar flows of the system of Ishmagilov allows adjacent and parallel flows of different solutions without barriers." (Office Action, p.16).

Agilent and Ishmagilov fail to remedy the deficiencies of the '686 reference. Agilent merely teaches a CE system that may be used for the analysis of oligonucleotides and other small molecules. The Agilent reference teaches that CE is used to separate ionic species by their charge and frictional forces (see page 8 of brochure). The Agilent reference teaches a method of CE with high resolving power that can be used to separate complex mixtures or closely related compounds (see e.g. page 8 of brochure).

The Examiner argues that Ishmagilov "studies fluidic switches and methods for controlling flow in microfluidic systems." (Office Action, p.5). The Examiner argues that Figure 10 of Ishmagilov et al. illustrates this property of collimated laminar flow in simple geometries." (Office Action, p.6).

The Examiner argues that "(i)t would have been further obvious to modify the multi-capillary electrophoresis system of (the '686 reference) and the sensors, agents, and apparatus of the Agilent brochure by use of the collimated and substantially separate laminar flows of Ishmagilov et al wherein the motivation would have been that the laminar flows of the system of Ishmagilov et al. allows adjacent and parallel flows of different solutions without barriers between the solutions and without mixing of the different channels of flow." (Office Action, p. 15)

The Ishmagilov reference nowhere teaches or suggests **scanning a cell based biosensor** in electrical communication with an electrode relative to multiple substantially separate interdigitated fluid streams of ligand and buffer from one or more outlets of one or more microchannels in the substrate as taught in the present invention. The Ishmagilov reference is directed to fluidic systems and switches for fluidic systems and methods for using them to control the flow in fluidic systems.

At best, The Ishmagilov reference examines the switching properties of fluids and teaches a working switch using a system such as that illustrated in FIG. 2, shown below, and detailed in Example 3:

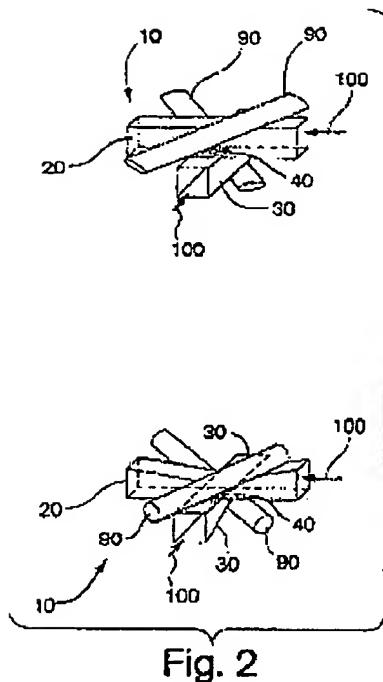


Fig. 2

The Ishmagilov reference teaches a fluidic system that provides a first and second fluid path, where the two fluid paths are in contact and a switch is provided for selectively controlling passage of fluid between the first and second fluid path at the fluid contact point. (see, e.g. p. 1, line 30 – p. 2, line 3). The Ishmagilov reference nowhere teaches or suggests scanning as presently claimed.

None of Colton, Katayama, Jaredemark or Couderc teaches or suggests scanning a cell based biosensor in electrical communication with an electrode relative to multiple substantially separate fluid streams from one or more outlets of one or more microchannels in the substrate.

None of the cited references, taken alone or in combination, teach or suggest the present invention as claimed.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the foregoing rejections.

**CONCLUSION**

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

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Respectfully submitted,

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